



COMMONWEALTH OF KENTUCKY
JUDICIAL ETHICS COMMITTEE
ADMINISTRATIVE OFFICE OF THE COURTS

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FRANKFORT, KENTUCKY 40601

JOHN P. HAYES
Court of Appeals

JOSEPH H. ECKERT
Circuit Court

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THOMAS J. KNOPF
District Court

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Attorney

JUDICIAL ETHICS OPINION JE-9

Informal

QUESTION #1: If I sell my practice to my partner when I become a judge, and if he pays me in installments, would I be disqualified in cases for which he is acting as a lawyer?

ANSWER: Yes.

QUESTION #2: May I rent the office, which I own, to my former partner?

ANSWER: Yes.

REFERENCES: SCR 4.300, Canon 5C(1).

OPINION: (July 1980)

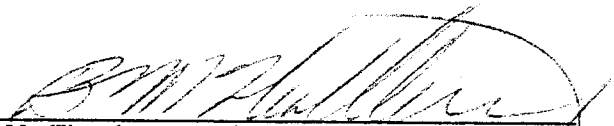
In view of the fact that a lawyer cannot "sell" his clients or his goodwill, the Committee assumes that the question is directed toward the sale of the tangible assets of the practice, such as office furniture and case files.

The purchase of such tangible assets on an installment plan would involve the judge in "frequent transactions" with a lawyer. Such activity is prohibited by Canon 5C(1). It is suggested that the partner negotiate a bank loan and pay the judge in full, thus obviating the necessity of the judge disqualifying himself for financial interest or the possibility of the appearance of impropriety.

It might be pointed out that Canon 3C(1) requires the judge to disqualify himself when:

- (b) he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it.

Rental of office space stands on a different footing because it involves routine payments of a relatively small sum and a minimum of personal involvement. A copy of Judicial Ethics Opinion JE-7, which is addressed to this matter, is enclosed for your information.



B. M. Westberry, Chairman
Ethics Committee of the Kentucky Judiciary